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Consultation response to ODPM on removing barriers in the transfer process to facilitate innovative private finance and deliver successful transfers

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Introduction

The Joseph Rowntree Foundation is submitting this response based largely on the findings of a research project 'The Evaluation of Stock Transfers' by Hal Pawson and Cathie Fancy of Heriot-Watt University. The JRF study of the pre-1999 transfers found that:

- The transfer process has tended to have a liberating effect on housing staff with the move to a more inclusive culture in which individual initiative is encouraged. Transfers have generally fostered staff ownership of corporate objectives to a degree far greater than in predecessor landlords.
- Whilst transfer associations' initially high indebtedness might be expected to generate a 'hard nosed' approach to housing management, this does not generally appear to be borne out: transfer landlords are much less likely to evict their tenants than traditional associations.
- Substantial creativity has been displayed by transfer associations in their efforts to keep faith with business plan targets and in attempting to counteract continuing stock losses mainly due to the preserved Right to Buy.
- In establishing themselves as financially sound, independent agencies with cohesive governing bodies, transfer associations often face considerable stresses in their early years.
- The challenges being encountered by recently-established transfer associations (in particular, 'partial transfer' landlords) tend to be greater than those which faced their longer-established counterparts.

The study therefore found much that was positive and dynamic among transfer associations. The Foundation welcomes the opportunity to comment on proposals designed to deliver more successful transfers.

Response

(a). Greater involvement of existing housing associations in stock transfers should be encouraged

This is seen as being potentially beneficial for a number of reasons, the most important being (i) the existing financial expertise which an established registered social landlord (RSL) could bring to a transfer proposal, and (ii) established RSLs' existing relationships with potential transfer funders. It would also help to facilitate transfer Housing Association (HA) involvement at an earlier stage in transfer preparation – considered a highly desirable objective in its own right (see below). Ideally, in the government's view, an existing HA selected as a potential transfer partner might even contribute its skills to an authority's option appraisal (preceding the decision to opt for transfer).

To give effect to this aspiration ODPM would, in future, require councils planning the establishment of a 'stand-alone RSL' to demonstrate that it had 'worked with tenants to explore the scope for working with existing RSLs'.

Comment: Central government RSLs have been promoting the 'existing RSL option' for stock transfers ever since the early 1990s – generally to little effect (other than to a limited extent in relation to partial transfers). The consultation paper perhaps underestimates the extent to which council tenants may be ill-disposed towards an existing housing association as a potential future landlord because it is seen as 'remote' and or 'predatory'.

(b). Transfer RSLs and funders need to be brought into the transfer planning process at an earlier stage than RSLs previously been typical

The consultation paper argues that transfer business plans typically bear too heavy an imprint of the transferring council. Ownership of these plans on the part of the transfer HA is usually, at best, limited. One result is the common expectation that the transfer HA will initiate a wide-ranging review of its business plan immediately it takes on stock ownership – at a time when, as the consultation paper argues, it ought to be focusing on service improvement and delivering ballot promises. 'The RSL (rather than the transferring council)….. should develop the business plan. This extends to decisions on the plan that supports the promises to tenants made ahead of the ballot' (p17).

Another proposed innovation designed to promote greater ownership of transfer business plans on the RSL side is the idea that transfer RSLs should, in future, meet the costs of their involvement during the pre-transfer period. This is seen as creating an incentive for the new landlord 'to ensure value for money' (p15).

The government also believes that funders should be brought into the transfer planning process at an early stage and that such involvement is potentially valuable in shaping the RSL's business plan, the transfer price and the funding strategy. Ideally, with the transfer RSL being established (or chosen) near the start of the process, the new landlord would be more clearly operating as the 'client' of the funding arranger.

Comment: The thinking here seems generally sound, although these objectives may be more difficult to achieve where the council opts for a newly-established transfer body. The idea that RSLs should bear pre-transfer costs may be seen as increasing the risks involved and therefore act to discourage the participation of existing associations.

(c). The Housing Corporation's rules need to be made more flexible in terms of their requirements on long-term funding for transfer RSLs

The government believes that it may be unnecessary to require that transfer landlords have a fully-funded 30 year business plan in advance of transfer. This expectation may be 'inefficient and potentially … costly'. Instead, it is proposed that the RSL should be required to have 'a 30-year funding strategy in place to deliver the business plan with initial funding in place on day one to meet the transfer price and any expenditure necessary to deliver the transfer promises made to tenants' (p10).

Comment: Again, this seems to be inspired by the wish to shift greater responsibilities onto the transfer RSL. At the same time, however, it would allow increased flexibility for the association – e.g. in relation to selecting the lender. It needs to be recognised that the proposed changes would place additional responsibilities on the Housing Corporation, as it would be required to make a judgement on whether the funding provisions were adequate.

(d). Valuation procedures should be reshaped in response to NAO findings that (i) transfer RSL business plans ought to factor in the likely positive value of transferred housing stock in year 30, and (ii) a standard discount rate is not always appropriate.

The National Audit Office (NAO) report pointed out that stock transfer valuations generally assumed, unrealistically, that the transferred properties would have no value in Year 30. It is therefore envisaged that, in future, the worth of the stock between 30 and 50 years after the transfer should be factored into the valuation. Similarly, ODPM will henceforward require that transfer proposals explicitly justify the adoption of a specific discount rate in the 6-8 per cent range, in terms of the physical, demographic and financial attributes of the stock involved.

Comment: It was important for the government to respond positively to the NAO's apparent conclusion that transfer prices failed to represent value for money.

(e). Benefits may potentially arise from the development of standard approaches to certain aspects of the transfer process

Private Finance Initiative (PFI) for social housing and Arms Length Management Organisation (ALMO) schemes are said to have benefited from the availability of standardisation and templated documents. The consultation paper acknowledges that these initiatives differ from stock transfer in that they do not involve change of ownership. At the same time, however, it asserts that the development of ‘process guides and standard approaches’ in certain areas could contribute to efficiency and free up the new landlord and consultants ‘to focus on issues particular to the individual transfer’ (p18).

Comment: Provided that there is no requirement for the adoption of ‘standard instruments’, this seems a constructive move.

Issues Needing Clarification

The consultation paper is keen to facilitate better pre-transfer planning and the enhanced involvement of transfer RSLs and funders at an early stage. It is not clear whether the government envisages further extending the period within which transfer LAs and their RSL partners are expected to complete the process.

The paper notes that some authorities contract out housing management to RSLs as a first step in the transfer process and argues that this can facilitate the establishment of close working relations, perhaps including the joint development of a transfer business plan (p17). Whether this kind of arrangement is advocated is, however, not apparent.

Issues Omitted

In the main, the consultation paper focuses on the technicalities of transfer rules and procedures. It is silent on the larger issue of how negative value transfers are to be achieved. The paper re-iterates the Communities Plan’s endorsement of partial transfers as a potentially important means of meeting the Decent Homes Standard for council housing. At the same time, though, it fails to acknowledge that (since the termination of the Estates Renewal Challenge Fund) councils have had little prospect of accessing the ‘dowry’ funding so often required to make such initiatives ‘stack up’ when the stock concerned has a substantially negative value.

Perhaps resources could, as the CIH suggests, be provided in the form of interest-free loans rather than grants. Such loans might be repayable from future development gains, from the savings generated by re-financing, or from housing management performance exceeding expectations. Through what ever means it is provided, some form of ‘dedicated pot’ to gap fund transfers is surely needed in order to make further inroads into upgrading the condition of the worst inner city estates.